

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY GOODEN,

Plaintiff,

v.

TRACY JOHNSON,

Defendant.

No. 2:24-cv-00023 DJC SCR P

ORDER

Plaintiff, a state prisoner, proceeds pro se with a civil rights action brought under 42 U.S.C. § 1983 challenging Warden Tracy Johnson’s decision not to recommend plaintiff for resentencing under state law. Plaintiff has filed an in forma pauperis (“IFP”) affidavit (ECF No. 2) in which he states he receives income from family but does not specify any amounts received. The certificate portion of the IFP affidavit indicates plaintiff had \$845.00 in his trust account at Folsom State Prison on the date the certificate was filled out and an average monthly balance of \$2,824.00 during the prior six months with average monthly deposits of \$1,209.79 during the prior six months. On the date plaintiff signed his IFP affidavit, his balance was \$1,765.00.

In order to commence this civil action, plaintiff must either pay both the \$350.00 filing fee and the \$55.00 administrative fee for a civil action or be granted leave to proceed in forma pauperis. See 28 U.S.C. §§ 1914(a), 1915(a). The court may authorize the commencement of an action “without prepayment of fees or security therefor” by an individual who submits an

1 affidavit evidencing an inability to pay such fees or give security therefor.¹ 28 U.S.C. § 1915(a).

2 “An affidavit in support of an IFP application is sufficient where it alleges that the affiant
3 cannot pay the court costs and still afford the necessities of life.” Escobedo v. Applebees, 787
4 F.3d 1226, 1234 (9th Cir. 2015) (citing Adkins v. E.I. Du Pont de Nemours & Co., Inc., 335 U.S.
5 331, 339 (1948)). While § 1915(a) does not require a litigant to demonstrate “absolute
6 destitution,” Adkins, 335 U.S. at 339, the applicant must nonetheless show inability to pay the
7 fees. 28 U.S.C. § 1915(a).

8 Plaintiff has made an inadequate showing of indigency in the affidavit before the court.
9 Plaintiff will therefore be granted 30 days in which to submit the court costs to the Clerk of the
10 Court. Plaintiff is cautioned that failure to pay the court costs will result in a recommendation that
11 the application to proceed in forma pauperis be denied and the instant action be dismissed without
12 prejudice.

13 Accordingly, IT IS HEREBY ORDERED that, within 30 days from the date of this order,
14 plaintiff shall submit the court costs of \$405 in order to proceed with this action.

15 DATED: October 15, 2024

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18 SEAN C. RIORDAN
UNITED STATES MAGISTRATE JUDGE

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27 ¹ When leave to file in forma pauperis is granted, a plaintiff is still be required to pay the \$350.00
28 filing fee but is allowed to pay it in installments. Litigants proceeding in forma pauperis are not
required to pay the \$55.00 administrative fee.